

House Study Bill 636 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON HOLT)

A BILL FOR

1 An Act relating to judicial selection, including the membership
2 of the district judicial nominating commissions, nominees to
3 the court of appeals, and the appointments, resignations,
4 and residency requirements of district judges, district
5 associate judges, associate juvenile judges, and associate
6 probate judges.
7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 46.3, subsections 1, 3, and 4, Code 2022,
2 are amended to read as follows:

3 1. The governor shall appoint ~~five~~ six eligible electors
4 of each judicial election district to the district judicial
5 nominating commission.

6 3. No more than ~~a simple majority~~ half of the commissioners
7 appointed shall be of the same gender.

8 ~~4. Beginning with terms commencing February 1, 2012, there~~
9 There shall not be more than one appointed commissioner from a
10 county within a judicial election district unless each county
11 within the judicial election district has an appointed or
12 elected commissioner or the number of appointed commissioners
13 exceeds the number of counties within the judicial election
14 district. This subsection shall not be used to remove an
15 appointed commissioner from office prior to the expiration of
16 the commissioner's term.

17 Sec. 2. Section 46.3, Code 2022, is amended by adding the
18 following new subsections:

19 NEW SUBSECTION. 3A. All commissioners shall be chosen
20 without reference to political affiliation.

21 NEW SUBSECTION. 5. A commissioner who has served a full
22 six-year term on a district judicial nominating commission,
23 whether the commissioner was appointed or elected, shall be
24 ineligible to be appointed for a second six-year term.

25 NEW SUBSECTION. 6. A person shall not be appointed as a
26 commissioner who holds an office of profit of the United States
27 or of the state at the time of the appointment.

28 Sec. 3. NEW SECTION. **46.3A Special appointment of district**
29 **judicial nominating commissioners and transition provisions.**

30 1. The initial term of the sixth commissioner appointed by
31 the governor to each judicial nominating commission shall begin
32 on July 1, 2022, and shall expire on June 30, 2024.

33 2. After the initial term is served pursuant to subsection
34 1, a new commissioner shall be appointed by the governor to a
35 six-year term as provided in section 46.3.

1 3. The terms of any commissioner currently serving on a
2 district judicial nominating commission or any commissioner
3 already elected to begin serving on or before July 1, 2022,
4 shall not be affected by this Act.

5 4. This section is repealed July 1, 2024.

6 Sec. 4. Section 46.5, subsection 4, Code 2022, is amended
7 to read as follows:

8 4. If a vacancy occurs in the office of chairperson of
9 the state judicial nominating commission, the members of the
10 commission shall elect a new chairperson as provided in section
11 46.6. If a vacancy occurs in the office of chairperson of a
12 district judicial nominating commission or in the absence of
13 the chairperson, the members of the particular commission shall
14 elect a ~~temporary new~~ chairperson ~~from their own number~~ as
15 provided in section 46.6.

16 Sec. 5. Section 46.5A, Code 2022, is amended to read as
17 follows:

18 **46.5A Judicial nominating commission expenses and**
19 **administrative support.**

20 1. Members of the state judicial nominating commission
21 and the district judicial nominating commissions are entitled
22 to be reimbursed for actual and necessary expenses incurred
23 in the performance of their duties as commissioners for each
24 day spent attending commission meetings or training sessions
25 called by the chairperson. Expenses shall be paid from funds
26 appropriated to the judicial branch for this purpose.

27 2. The state court administrator shall provide
28 administrative support, facilities, and other assistance to
29 the state judicial nominating commission for any meeting
30 of the commission that is properly noticed under section
31 46.13. Each district court administrator shall provide
32 administrative support, facilities, and other assistance to the
33 district judicial nominating commission for any meeting of the
34 commission that is properly noticed under section 46.13.

35 Sec. 6. Section 46.6, Code 2022, is amended to read as

1 follows:

2 **46.6 Chairperson.**

3 ~~1.~~ The commissioners of the state judicial nominating
4 commission and the district judicial nominating commission
5 shall elect a chairperson from their own number. The
6 chairperson of the state judicial nominating commission shall
7 serve a two-year term that expires on April 30 of even-numbered
8 years. The chairperson of a district judicial nominating
9 commission shall serve a two-year term that expires on January
10 31 of even-numbered years. A commissioner may be reelected
11 for a second or third term as chairperson. If a chairperson
12 of a judicial nominating commission desires to be relieved
13 of the duties of chairperson while retaining the status of
14 commissioner, the chairperson shall notify the governor and the
15 other commissioners of the commission. At the next meeting of
16 the commission, the commissioners shall elect a new chairperson
17 for the remainder of the two-year term.

18 ~~2. The judge of longest service in the district shall serve~~
19 ~~as the chair of a particular district judicial nominating~~
20 ~~commission. If the judges of longest service in the district~~
21 ~~are of equal service, the eldest of such judges shall be~~
22 ~~chairperson of the particular judicial nominating commission.~~

23 Sec. 7. Section 46.14, subsection 1, Code 2022, is amended
24 to read as follows:

25 1. Each judicial nominating commission shall carefully
26 consider the individuals available for judge, and within sixty
27 days after receiving notice of a vacancy shall certify to the
28 governor and the chief justice the proper number of nominees,
29 in alphabetical order. Such nominees shall be chosen by the
30 affirmative vote of a majority of the full statutory number
31 of commissioners upon the basis of their qualifications and
32 without regard to political affiliation. Nominees shall be
33 members of the bar of Iowa, shall be residents of the state ~~or~~
34 ~~district of the court to which they are nominated,~~ and shall
35 be of such age that they will be able to serve an initial and

1 one regular term of office to which they are nominated before
2 reaching the age of seventy-two years. ~~Nominees for district~~
3 ~~judge shall file a certified application form, to be provided~~
4 ~~by the supreme court, with the chairperson of the district~~
5 ~~judicial nominating commission.~~ Absence of a commissioner or
6 vacancy upon the commission shall not invalidate a nomination.
7 The chairperson of the commission shall promptly certify
8 the names of the nominees, in alphabetical order, to the
9 governor and the chief justice by sending by electronic mail
10 the certification to the governor and chief justice or the
11 governor's and chief justice's designees on the day of the
12 nomination.

13 Sec. 8. Section 46.14A, Code 2022, is amended to read as
14 follows:

15 **46.14A Court of appeals — nominees.**

16 Vacancies in the court of appeals shall be filled by
17 appointment by the governor from a list of nominees submitted
18 by the state judicial nominating commission. ~~Three~~ Five
19 nominees shall be submitted for each vacancy. Nominees to the
20 court of appeals shall have the qualifications prescribed for
21 nominees to the supreme court.

22 Sec. 9. Section 602.2301, subsection 2, Code 2022, is
23 amended to read as follows:

24 2. Notwithstanding sections 602.6304, 602.7103B, and
25 633.20B, the chief justice may order any county magistrate
26 appointing commission the state commissioner of elections
27 to delay, for budgetary reasons, publicizing the notice the
28 sending of a notification to the governor that a vacancy in
29 the office of a vacancy for a district associate judgeship
30 judge, associate juvenile judgeship judge, or associate probate
31 judgeship judge has occurred or will occur.

32 Sec. 10. Section 602.6201, subsection 2, Code 2022, is
33 amended to read as follows:

34 2. A district judge must be a resident of the judicial
35 election district in which appointed ~~and retained~~ before

1 assuming office and during the entire term of office. Subject
2 to the provision for reassignment of judges under section
3 602.6108, a district judge shall serve in the district of the
4 judge's residence while in office, regardless of the number of
5 judgeships to which the district is entitled under the formula
6 prescribed by the supreme court in subsection 3.

7 Sec. 11. Section 602.6302, subsection 2, Code 2022, is
8 amended to read as follows:

9 2. An order of substitution shall not take effect unless
10 a copy of the order is received by the chairperson of the
11 county magistrate appointing commission or commissions and
12 the governor no later than May 31 of the year in which the
13 substitution is to take effect. A copy of the order shall also
14 be sent to the state court administrator.

15 Sec. 12. Section 602.6303, subsection 2, Code 2022, is
16 amended to read as follows:

17 2. An order of substitution shall not take effect unless
18 a copy of the order is received by the chairperson of the
19 county magistrate appointing commission or commissions and
20 the governor no later than May 31 of the year in which the
21 substitution is to take effect. The order shall designate the
22 county of appointment for each magistrate. A copy of the order
23 shall also be sent to the state court administrator.

24 Sec. 13. Section 602.6304, Code 2022, is amended by striking
25 the section and inserting in lieu thereof the following:

26 **602.6304 Appointment and resignation of district associate**
27 **judges.**

28 1. The district associate judges authorized by sections
29 602.6301 and 602.6302 shall be appointed by the governor
30 from persons nominated by the district judicial nominating
31 commission in the same manner as district judges under chapter
32 46.

33 2. A district associate judge who seeks to resign from the
34 office of district associate judge shall notify in writing the
35 governor, the chief judge of the judicial district, and the

1 state commissioner of elections as to the district associate
2 judge's intention to resign and the effective date of the
3 resignation.

4 3. When a vacancy occurs or will occur within one hundred
5 twenty days in the office of the district associate judge, the
6 state commissioner of elections shall forthwith so notify the
7 governor. The governor shall call a meeting of the commission
8 within ten days after such notice. If the governor fails to do
9 so, the chief justice shall call such meeting.

10 Sec. 14. Section 602.6305, subsections 2 and 3, Code 2022,
11 are amended to read as follows:

12 2. A person does not qualify for appointment to the office
13 of district associate judge unless the person is at the time
14 of appointment ~~a resident of the judicial election district in~~
15 ~~which the vacancy exists,~~ licensed to practice law in Iowa,
16 and will be able, measured by the person's age at the time of
17 appointment, to complete the initial term of office prior to
18 reaching age seventy-two. ~~An applicant for district associate~~
19 ~~judge shall file a certified application form, to be provided~~
20 ~~by the supreme court, with the chairperson of the county~~
21 ~~magistrate appointing commission.~~ A nominee to the office of
22 district associate judge must reside in the judicial election
23 district to which the nominee is nominated or in another
24 judicial election district in the same judicial district as the
25 judicial election district to which the nominee is nominated.

26 3. A district associate judge must be a resident of the
27 judicial election district in which the office is held before
28 assuming office and during the entire term of office. A
29 district associate judge shall serve within the judicial
30 district in which appointed, as directed by the chief judge,
31 and is subject to reassignment under [section 602.6108](#).

32 Sec. 15. Section 602.6502, Code 2022, is amended to read as
33 follows:

34 **602.6502 Prohibitions to appointment.**

35 A member of a county magistrate appointing commission

1 shall not be appointed to the office of magistrate, ~~and shall~~
2 ~~not be nominated for or appointed to the office of district~~
3 ~~associate judge, office of associate juvenile judge, or office~~
4 ~~of associate probate judge.~~ A member of the commission shall
5 not be eligible to vote for the appointment or nomination of
6 a family member, current law partner, or current business
7 partner. For purposes of **this section**, "*family member*"
8 means a spouse, son, daughter, brother, sister, uncle, aunt,
9 first cousin, nephew, niece, father-in-law, mother-in-law,
10 son-in-law, daughter-in-law, brother-in-law, sister-in-law,
11 father, mother, stepfather, stepmother, stepson, stepdaughter,
12 stepbrother, stepsister, half brother, or half sister.

13 Sec. 16. Section 602.7103B, Code 2022, is amended by
14 striking the section and inserting in lieu thereof the
15 following:

16 **602.7103B Appointment and resignation of full-time associate**
17 **juvenile judges.**

18 1. Full-time associate juvenile judges shall be appointed
19 by the governor from persons nominated by the district judicial
20 nominating commission in the same manner as district judges
21 under chapter 46.

22 2. A full-time associate juvenile judge who seeks to
23 resign from the office of full-time associate juvenile judge
24 shall notify in writing the governor, the chief judge of the
25 judicial district, and the state commissioner of elections as
26 to the full-time associate judge's intention to resign and the
27 effective date of the resignation.

28 3. When a vacancy occurs or will occur within one hundred
29 twenty days in the office of a full-time associate juvenile
30 judge, the state commissioner of elections shall forthwith so
31 notify the governor. The governor shall call a meeting of the
32 commission within ten days after such notice. If the governor
33 fails to do so, the chief justice shall call such meeting.

34 Sec. 17. Section 602.7103C, subsections 2 and 3, Code 2022,
35 are amended to read as follows:

1 2. A person does not qualify for appointment to the office
2 of full-time associate juvenile judge unless the person is
3 at the time of appointment ~~a resident of the county in which~~
4 ~~the vacancy exists,~~ licensed to practice law in Iowa, and
5 will be able, measured by the person's age at the time of
6 appointment, to complete the initial term of office prior to
7 reaching age seventy-two. ~~An applicant for full-time associate~~
8 ~~juvenile judge shall file a certified application form, to~~
9 ~~be provided by the supreme court, with the chairperson of~~
10 ~~the county magistrate appointing commission~~ A nominee to the
11 office of full-time associate juvenile judge must reside in the
12 judicial election district to which the nominee is nominated
13 or in another judicial election district in the same judicial
14 district as the judicial election district to which the nominee
15 is nominated.

16 3. A full-time associate juvenile judge must be a resident
17 of ~~a county~~ the judicial election district in which the office
18 is held before assuming office and during the entire term of
19 office. A full-time associate juvenile judge shall serve
20 within the judicial district in which appointed, as directed by
21 the chief judge, and is subject to reassignment under section
22 602.6108.

23 Sec. 18. Section 633.20B, Code 2022, is amended by striking
24 the section and inserting in lieu thereof the following:

25 **633.20B Appointment and resignation of full-time associate**
26 **probate judges.**

27 1. Full-time associate probate judges shall be appointed by
28 the governor from persons nominated by the district judicial
29 nominating commission in the same manner as district judges
30 under chapter 46.

31 2. A full-time associate probate judge who seeks to resign
32 from the office of full-time associate probate judge shall
33 notify in writing the governor, the chief judge of the judicial
34 district, and the state commissioner of elections as to the
35 full-time associate probate judge's intention to resign and the

1 effective date of the resignation.

2 3. When a vacancy occurs or will occur within one hundred
3 twenty days in the office of a full-time associate probate
4 judge, the state commissioner of elections shall forthwith so
5 notify the governor. The governor shall call a meeting of the
6 commission within ten days after such notice. If the governor
7 fails to do so, the chief justice shall call such meeting.

8 Sec. 19. Section 633.20C, subsections 2 and 3, Code 2022,
9 are amended to read as follows:

10 2. A person does not qualify for appointment to the office
11 of full-time associate probate judge unless the person is at
12 the time of appointment ~~a resident of the county in which~~
13 ~~the vacancy exists,~~ licensed to practice law in Iowa, and
14 will be able, measured by the person's age at the time of
15 appointment, to complete the initial term of office prior to
16 reaching age seventy-two. ~~An applicant for full-time associate~~
17 ~~probate judge shall file a certified application form, to~~
18 ~~be provided by the supreme court, with the chairperson of~~
19 ~~the county magistrate appointing commission~~ A nominee to the
20 office of full-time associate probate judge must reside in the
21 judicial election district to which the nominee is nominated
22 or in another judicial election district in the same judicial
23 district as the judicial election district to which the nominee
24 is nominated.

25 3. A full-time associate probate judge must be a resident
26 of ~~a county~~ the judicial election district in which the office
27 is held before assuming office and during the entire term of
28 office. A full-time associate probate judge shall serve within
29 the judicial district in which appointed, as directed by the
30 chief judge, and is subject to reassignment under section
31 602.6108.

32 EXPLANATION

33 The inclusion of this explanation does not constitute agreement with
34 the explanation's substance by the members of the general assembly.

35 This bill relates to the judicial selection, including

1 the membership of district judicial nominating commissions,
2 nominees to the court of appeals, and the appointments,
3 resignations, and residency requirements of district judges,
4 district associate judges, associate juvenile judges, and
5 associate probate judges.

6 District judicial nominating commissions are responsible
7 for screening applicants and selecting nominees for district
8 court judicial vacancies. There is a nominating commission for
9 each of Iowa's 14 judicial election subdistricts. District
10 nominating commissions provide the governor with a slate of
11 two nominees from which to make an appointment to the district
12 court.

13 Under current law, the governor appoints five eligible
14 electors of each judicial district to the 11-person commission.
15 Five members are elected by the bar, and the most senior
16 judge in the district serves as the 11th commissioner and
17 as the chairperson of the commission. The bill removes the
18 most senior judge as a commissioner and as the chairperson.
19 The bill provides that the governor shall appoint a sixth
20 commissioner, and that the commissioners shall elect a
21 chairperson from their own number.

22 The bill provides that commissioners shall be appointed
23 without reference to political affiliation, that no more than
24 half of the appointed commissioners shall be of the same
25 gender, and that a commissioner cannot be reelected after
26 serving a full six-year term. A person shall not be appointed
27 as a commissioner that holds a federal or state office of
28 profit.

29 The bill provides for special appointment of the sixth
30 appointed district judicial nominating commissioner and
31 transition provisions. The initial term of the sixth
32 commissioner appointed by the governor to each judicial
33 nominating commission shall begin on July 1, 2022, and shall
34 expire on June 30, 2024.

35 The bill provides that the state or district court

1 administrators shall provide administrative support,
2 facilities, and other assistance to their respective judicial
3 nominating commission for any meeting of the commission that is
4 properly noticed.

5 Under current law, the nominees for district judge shall
6 file a certified application that is to be provided to
7 the supreme court. The bill provides that the nominees no
8 longer are required to submit a certified application and the
9 chairperson of the commission shall promptly send a certified
10 list of nominees by electronic mail to the governor and chief
11 justice of the supreme court or their designees on the day of
12 the nomination.

13 Under current law, the state judicial nominating commission
14 submits three nominees for a vacant court of appeals position.
15 The bill provides that five nominees shall be submitted for
16 each vacancy.

17 Under current law, a district judge, a full-time associate
18 judge, a full-time associate juvenile judge, and a full-time
19 associate probate judge must be a resident of the judicial
20 election district in which appointed. The bill provides that
21 a district judge, a full-time associate judge, a full-time
22 associate juvenile judge, and a full-time associate probate
23 judge must be a resident of the judicial election district
24 before assuming office and during the entire term of office.

25 Under current law, district associate judges, full-time
26 associate juvenile judges, and full-time associate probate
27 judges are appointed by the district judges of the judicial
28 election district from persons nominated by the county
29 magistrate appointing commission. The bill provides that
30 district associate judges, full-time associate juvenile judges,
31 and full-time associate probate judges shall be appointed by
32 the governor from persons nominated by the district judicial
33 nominating commission in the same manner as district judges
34 under Code chapter 46.

35 The bill provides that a district associate judge, full-time

1 associate juvenile judge, or full-time associate probate judge
2 who seeks to resign shall notify in writing the governor,
3 chief judge of the judicial district, and state commissioner
4 of elections as to the district associate judge's, associate
5 full-time juvenile judge's, or associate full-time probate
6 judge's intention to resign and the effective date of the
7 resignation. When a vacancy occurs or will occur within 120
8 days in the office of the district associate judge, associate
9 full-time juvenile judge, and associate full-time probate
10 judge, the state commissioner of elections shall notify the
11 governor. The governor shall call a meeting of the commission
12 within 10 days after such notice. If the governor fails to do
13 so, the chief justice shall call such meeting.

14 The bill provides that a person does not qualify for
15 appointment to the office of district associate judge,
16 associate full-time juvenile judge, or associate full-time
17 probate judge unless the person is at the time of appointment
18 licensed to practice law in Iowa, and will be able, measured
19 by the person's age at the time of appointment, to complete
20 the initial term of office prior to reaching age 72. Nominees
21 must reside in the judicial election district to which they are
22 nominated or in another judicial election district in the same
23 judicial district as the judicial election district to which
24 they are nominated.

25 Under current law, a member of a county magistrate
26 appointing commission shall not be appointed to the office
27 of magistrate, district associate judge, office of associate
28 juvenile judge, or office of associate probate judge. The
29 bill provides that a member of a county magistrate appointing
30 commission shall not be appointed to the office of magistrate
31 but may be nominated for or appointed to the office of district
32 associate judge, office of associate juvenile judge, or office
33 of associate probate judge.